SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY

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No. 56 Gangtok, Wednesday, April 6, 1983.

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

NOTIFICATION

No. 8/LD/1983. Dated the 6th April, 1983.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 4th day of April, 1983, is hereby published for general information:—

THE TASHI NAMGYAL ACADEMY BOARD ACT, 1983

(ACT NO. 8 OF 1983)

A

ACT

[4.4.1983]

to provide for the establishment of a Board for managing the affairs of the school known as the Tashi Namgyal Academy, Gangtok, and its properties and for matters connected therewith.

BE it enacted by the Legislative Assembly of the State of Sikkim in the Thirty-fourth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Tashi Namgyal Academy Board Act, 1983. *Short title and commencement.*

(2) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,— *Definitions.*

(a) "appointed day" means the date of commencement of this Act;

(b) "appointing authority" means the Chairman;

(c) "auditor" means auditor appointed under section 7 (3);

(d) "Board" means the Tashi Namgyal Academy Board established under section 3;

(e) "Chairman" means the Chairman of the Tashi Namgyal Academy Board;

(f) "Executive Committee" means the Executive Committee constituted under section 13;

(g) "Government" means the State Government of Sikkim;

(h) "Fund" means the Tashi Namgyal Academy Board Fund referred to in section 9;

(i) "prescribed" means prescribed by regulations made by the Board under section 20;

(j) "President" means President of the Executive Committee;

(k) "school" means Tashi Namgyal Academy;

(l) "Secretary" means Secretary of the Board or the Executive Committee, as the case may be.

CHAPTER II

Establishment of the Tashi Namgyal Academy Board

Establishment and incorporation of Board.

3. (1) On and from the appointed day there shall be established a Board to be called the Tashi Namgyal Academy Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the same name sue and be sued.

(3) The Head office of the Board shall be at Gangtok in the State of Sikkim.

Constitution of the Board.

4. (1) The Board shall consist of the following members, namely :—

(a) Minister for Education, Sikkim State, Chairman;
(b) Chief Secretary to the Government, Vice-Chairman;
(c) Secretary, Education Department of the Government, Member;
(d) Secretary, Finance Department of the Government, Member;
(e) Secretary, Law Department of the Government, Member;
(f) Secretary, Establishment Department of the Government, Member;
(g) Chief Engineer, SPWD (Buildings), Government of Sikkim, Member;
(h) The Principal, Government College, Gangtok, Member;
(i) Representative of parents, Member;
(j) Representative of parents, Member;
(k) The Principal of the school.

(2) The Principal of the school shall function as the Secretary to the Board.

(3) The members specified in clauses (i) and (j) of sub-section (1) shall be elected in accordance with such procedure as may be prescribed and shall hold office for a term of five years.

Removal and resignation of members.

5. (1) The Board may, at any time, remove any member if it is proved that such member is guilty of misusing his office for private profit or he is incapable of discharging his duties as a member due to mental or physical infirmity.

(2) The Board may remove from office any member other than an ex-officio member who is absent without leave of the Board from more than three consecutive meetings thereof without cause sufficient, in the opinion of the Board, to exonerate his absence:

Provided that no member shall be removed form office under sub-sections (1) or (2) unless a reasonable opportunity has been given to him to show cause against such removal.

(3) Any member (other than one who holds office in ex-officio capacity) may resign from office by giving notice in writing to the Chairman, and such resignation being accepted by the Chairman, he shall be deemed to have vacated his office with effect from the date of his resignation or such other later date as may be specified.

6 (1) The Board shall meet once a year in a meeting called Annual Meeting, and such Annual Meeting for any year shall be held before the expiry of three months from the end of the immediately preceding academic session of the school. The procedure for holding such meeting shall be such as may be prescribed. *Proceedings of the Board.*

(2) At an Annual Meeting the Board shall consider the Annual Report presented to it by the Executive Committee including the audited accounts and auditor's report relating to the immediately preceding year and pass the same without notification or pass the same with observations for consideration of the Executive Committee.

(3) In the Annual Meeting the Board shall appoint or reappoint an auditor as required under Section 7 (3).

(4) In addition to an Annual Meeting the Board may meet as often as is necessary (such a meeting being called 'Special Meeting') provided that following conditions are satisfied:—

(i) The proposal to hold any special meeting should originate from the Executive Committee except where a Special Meeting is summoned under Section 7 (4).

(ii) The agenda for the meeting should be circulated among all members of the Board at least seven days before the date of the proposed meeting.

(iii) There should be proper notice of the meeting to all members of the Board in accordance with procedure prescribed in respect of Annual Meeting.

(iv) Other procedural regulations regarding a Special Meeting shall be the same as in the case of an Annual Meeting.

CHAPTER III

Powers and Functions of the Board.

7. (1) The Board shall be the legal owner of the school and all its properties and the employer of all employees of the school including its Principal. *Board as owner and employer.*

(2) The Chairman shall be the appointing authority of all employees of the school including its Principal. The Board's prior sanction shall be obtained (in an Annual Meeting or a Special Meeting) by the Executive Committee before any immovable properties are acquired by outright purchase or disposed of by way of sale or otherwise, and such acquisitions and disposals shall be made in the name of the Board. *Property transactions.*

(3) The Board shall, in its Annual Meeting, appoint an auditor (which term includes a firm of auditors) who is qualified to audit Company Accounts, to audit the accounts of the school for the year in which the Annual Meeting is held: *Appointment of auditor.*

Provided that the same auditor shall not be appointed for more than three consecutive years.

(4) The Board may remove any member of the Executive Committee in a Special Meeting summoned at the instance of the Chairman for proved misuse of power and grave infringement of the provisions of this Act and the regulations made thereunder, and make such transitory provisions as it deems fit to remedy the vacancy thus caused. *Removal of member of Executive Committee.*

(5) Any alterations in the structure of the school of the type described below shall be within the exclusive competence of the Board, and it may consider them in an Annual Meeting or a Special Meeting:— *Certain alterations of school-structure within exclusive competence of Board.*

(i) Change in the medium of instruction in the school.

(ii) Abolition or addition of class. (Provided that this does not apply to abolition or addition of a division or section of an existing class).

(iii) Change over of the affiliation of the school to any Board, Council or other body for Examinations to any other Board, Council or other body for Examinations.

CHAPTER IV

Finance, Properties and Accounts

Transfer of school property and other properties.

8. (1) On and from the appointed day, the land, buildings, furniture and equipments or any other assets, in which the school is on that day housed or, as the case may be, which are on that day owned by the school or owned by the Government, but given over for the use or benefit of the school, shall stand transferred to, and vest in, the Board.

(2) The Government may, at any time, transfer to the Board, any land, buildings or any other property, movable or immovable, either absolutely or on lease, for use and management by the Board to run the school and comply with the provisions of this Act.

The TNA Board Fund.

9. (1) The Board shall have a fund to be called the Tashi Namgyal Academy Board Fund.

(2) The Board may accept grants, subventions, donations and gifts and loans from the Government or a local authority or any individual or body, whether incorporated or not, for all or any of the purposes of this Act.

(3) The Government may, from time to time, make grants to the Board including grant of part or whole of the amount required to meet the expenditure on establishment of the Board.

(4) All moneys received by or on behalf of the Board, all proceeds of sale of land or any other property, all rents, betterment charges and all interest, profits and other moneys accruing to the Board shall be deposited in the fund of the Board:

Provided that the provisions of this sub-section shall not apply to the TNA Capital Fund referred to in section 10.

The TNA Captial Fund.

10. (1) The Government shall, on the date of commencement of this Act, or as soon thereafter as possible, transfer absolutely a sum of rupees five lacs which shall form the nucleus of the corpus of a fund to be created and known as the TNA Capital Fund, the income from which is to be exclusively used for purpose of acquisition of new capital assets (moveable or immovable) and the maintenance of the land and buildings of the school. The Government may, through periodical grants enhance the corpus of the said Fund to such limit as it may deem fit.

(2) The Government may, in respect of the Fund referred to in sub-section (1), lay down such rules regarding the custody and management of the said Fund as it deems fit, and such restrictions and stipulations as it deems fit to ensure that the corpus of the Fund is preserved and the income therefrom is utilised only for the purposes stated in the said sub-section.

Application of the Fund.

11. All property, fund and all other assets vested in the Board shall be held and applied by it subject to the provisions and for the purposes of this Act.

Power of Executive Committee to negotiate regarding transactions.

12. (1) Subject to the provisions of sub-section (2) of section 7, all transactions in money and property covered in this Chapter shall be entered into and carried out by the Executive Committee on behalf of the Board, and it shall have power to enter into and carry out such transactions without prior reference to the Board:

Provided that —

(a) all such transactions are within the competence of the Board; and

(b) all such transactions are reported to the Board in the immediately following Annual Meeting.

(2) The Executive Committee may open such accounts, in such banks, as it deems fit, to deposit and operate the moneys belonging to the Board's Fund referred to in section 9 and any other funds and moneys belonging to the Board, including the TNA Capital Fund referred to in section 10 (1) (Subject to the restrictions and stipulations, if any, made by the Government regarding the said fund), and may operate such accounts on behalf of the Board at its discretion for the benefit of the school and the Board and for giving effect to the provisions of this Act. *Executive Committee to operate Bank Accounts.*

(3) Subject to the powers and functions assigned by it to him, the Executive Committee may delegate, from time to time, through written orders, any or all, part or whole, of its powers stated in sub-sections (1) and (2) above to the Secretary. *Powers may be delegated to the Secretary.*

(4) (a) The Executive Committee shall ensure that proper accounts are maintained in respect of all financial transactions of the Board, and that the auditor is enabled to audit all such accounts effectively and in proper time. *Accounts and audit.*

(b) The Executive Committee may also cause internal audit to be conducted as and when it deems fit.

CHAPTER V

Executive Committee

13. (1) Every year, at its Annual Meeting, the Board shall constitute an Executive Committee consisting of persons referred to in sub-section (3), in order to carry out the purposes of this Act and run the school on behalf of the Board. *Executive Committee to be constituted every year.*

(2) The tenure of the Executive Committee shall be only for the period starting with the date of its constitution and ending with the date of the constitution of the next year's Executive Committee in the next Annual Meeting. *Tenure.*

(3) Subject to sub-section (4), the Executive Committee shall consist of five members, one of whom shall be named as its President, who shall be an ex-officio member of the Board (other than the Principal/Secretary) and the remaining members shall consist of another ex-officio member of the Board (other than the Principal/Secretary), the Principal (who shall be named its Secretary), and two experts in the field of education to be nominated as hereinafter provided, who may or may not be members of the Board. *Constitution.*

(4) Notwithstanding the provisions of Sub-Section (3), the Chairman may nominate not more than two additional members of his choice to function as members of the Executive Committee as and when he considers it necessary. *Nominating of member.*

(5) One of the experts in the field of education nominated as members of the Executive Committee shall be the Principal/Headmaster of any residential public school of good standing located in Sikkim or Northern Bengal, and the other shall be an educationist of high standing who normally resides or works in any part of North Eastern India, including the State of West Bengal. *Experts in field of Education.*

(6) The initial constitution of the Executive Committee in the year in which this Act comes into force shall be the following:— *Initial Constitution.*

(i) Secretary, Department of Education, Government of Sikkim- President;

(ii) Secretary, Department of Finance, Government of Sikkim;

(iii) Secretary, Establishment Department,

(iv) Two experts in the field of education to be nominated by the Chairman;

(v) The Principal, who shall be the Secretary of the Executive Committee.

Members in ex-officio capacity.

(7) The members of the Executive Committee (other than the two expe. in the field of education) shall hold office only in an ex-officio capacity, and shall cease to be members once they cease to be members of the Board.

Existing Executive Committee to continue in certain cases.

(8) If no new Executive Committee is constituted, or there is delay in its constitution, the existing Executive Committee shall continue to function till a new Executive Committee is constituted.

Chairman to issue orders.

(9) The Chairman shall issue all orders, on behalf of the Board, constituting the Executive Committee.

Consultative Committee.

14. (1) The President may constitute a Consultative Committee consisting of two representatives of the members of the teaching staff of the school and two representatives of the parents or guardians of the students of the School.

(2) The nomination of these representatives and their tenure shall be such as may be prescribed.

(3) The members of the Consultative Committee shall have right only to attend the meetings of the Executive Committee if and when inivited to do so, and to tender their advice or express their views but shall have no right to vote. They also shall have right to attend only those parts of the proceedings to which the President has invited them.

(4) Nothing contained in this Act shall bar the President from seeking the advice from experts in the field of education, law, etc, and allowing them to take part in the proceedings of the Executive Committee, but they shall have no right to vote.

Procedure to fill in vacancy of nominated member.

15. If any vacancy arises in the Executive Committee due to resignation, death or such other causes of a nominated member of the Executive Committee, the Chairman shall, in consultation with the remaining members of the Executive Committee fill in the vacancy, and such new member shall be in office till the term of the said Executive Committee expires.

Procedure for the meetings of the Executive Committee.

16. (1) The Executive Committee shall meet as often as required by exigencies, provided that there shall be not less than four meetings in a year.

(2) At least ten day's notice shall be given to all members of the Executive Committee and the Agenda shall be circulated among them at least seven days in advance of the meeting:

Provided that in fit cases the above time limits may be reduced at the discretion of the President.

(3) The quorum shall be a majority of the members.

(4) Other rules of procedure of the meetings shall be such as may be prescribed.

CHAPTER VI

Powers and Functions of the Executive Committee

Powers and Functions in addition to those enumerated in Section 12.

17. The Executive Committee shall have the following powers, functions and duties, and those shall be in addition to those enumerated in section 12.

Review and Advice on several matters concerning school.

(a) To review and advice in the proper care, upkeep and administration of the school, its staff, finances, land, buildings, furniture and equipment and maintenance of necessary records and accounts.

Sub-Committee for appointment etc.

(b) Every appointment, termination of service, dismissal, retirement, extension of service or re-employment of any of the employees of the school other than its Principal, and every case of disciplinary action against any such employee where, according to the relevant service rules, the maximum punishment involves dismissal or compulsory retirement, shall be considered and decided by a Sub-Committee consisting of the President, Secretary, Establishment Department of the Government and Principal/ Secretary which shall make recommandations to the Chairman.

(c) (i) The Principal and the Vice-Principal of the school shall be appointed by the Board. *Appointment of Principal etc.*

(ii) All matters regarding the service of the Principal including any disciplinary proceedings against him and his dismissal, discharge, extension of service etc., shall be considered and decided by the Board.

(d) To frame service rules governing the Principal and staff of the school: *Service rules.*

Provided that when such rules are framed for the first time they shall be placed before the first Annual Meeting of the Board taking place after that, and any amendments in those rules made in any year shall be recorded in the Annual Report submitted to the immediately following Annual Meeting.

(e) To sanction or refuse to sanction any leave (with or without pay) of more than three months or any extension of such leave beyond three months.

(f) To sanction or refuse to sanction any study leave (with or without pay).

(g) To prescribe scales of salary and allowances as may be necessary from time to time.

(h) To sanction new posts or abolish existing posts or upgrade existing posts.

(i) To sanction expenditure on major repairs and purchase of furniture and equipment beyond the powers delegated by the Executive Committee to the Principal.

(j) To negotiate and carry through all transactions relating to property on behalf of the Board.

(k) To approach and negotiate with Government or any local authority or any individual or body, whether incorporated or not, for grants, subventions, donations and gifts and loans on behalf of the Board.

(e) To sanction opening of bank accounts by the Principal/Secretary and prescribe procedure for operation of such bank accounts.

(m) To consider the yearly budgets, supplementary budgets and revised estimates submitted by the Principal and pass such budgets and estimates.

(n) To define the powers and functions of the Principal, delegate to him any of the powers vested in it under this Act and regulations made thereunder and to amend those from time to time.

CHAPTER VII

Powers, Functions and Duties of the Principal.

18. (1) The Principal shall be the ex-officio Secretary both of the Board and the Executive Committee. *Powers, Functions and Duties of the Principal.*

(2) It shall be the duty of the Principal, in his capacity as Secretary, to convene meetings of the Board and the Executive Committee, to record their proceedings, circulate the minutes and keep records of the Board and Executive Committee.

(3) (i) He shall be in overall charge of the School, exercising immediate control and supervision of all staff, and all powers not specifically reserved for the Executive Committee or the Board elsewhere in this Act shall be exercised by him on behalf of the Executive Committee and the Board.

(ii) In particular, he shall be, subject to the powers and functions delegated to him by the Executive Committee, responsible for the planning and execution of the academic and co-curricular activities of the school and discipline among staff and students.

(4) The Principal shall have power to incur expenditure upto such extent as may be determined by the Executive Committee from time to time.

CHAPTER VIII
Miscellaneous

Removal of difficulties. 19. If any difficulty arises in giving effect to any of the provisions of this Act, the Government may, by order, remove such difficulty.

Power of Board to make regulations. 20. (1) The Board may, from time to time, make regulations consistent with this Act;

(2) In particular, and without prejudice to the generality of the foregoing provision, such regulations may be made on the following matters, namely:-

(a) procedure for election of members referred to in clauses (i) and (j) of section 4;

(b) procedure for holding meetings of the Board;

(c) nomination and tenure of members of Consultative Committees referred to in section 14;

(d) rules and procedure of the meetings of the Executive Committee other than those enumerated in sub-sections (1) to (3) of section 16;

(e) procedure for prefering appeals to Executive Committee by members of staff of the school;

(f) any other matter which has to be, or may be, prescribed.

(3) Till such time as regulations regarding the terms and condition of service of the school employees and finance and money matters are made under the provisions of this Act, the corresponding rules of the Government may be followed, or followed to the extent the circumstances permit:

Provided that this is without prejudice to any provisions already incorporated in this Act relating to such matters.

Procedure regarding resolution etc. 21. All decisions may be made, and resolutions passed, by the Board and the Executive Committee as far as possible unanimously, and where there is disagreement, a simple mojority of members present and voting shall decide the issue. In case of equality of votes, the presiding officer sh" have a second and casting vote.

Member of Board or Committees not to vote in certain cases. A member of the Board or Executive Committe who has any direct or indirect pecuniary interest in any matter coming up for consideration at a meeting of the Board or Executive Committee shall as soon as possible after relevant circumstances have come to his knowledge, disclose the nature of his interest at such meeting, and the disclosure shall be recorded in the minutes of the Board or Executive Committee, as the case may be, and the member shall not take any part in any deliberation or decision of the Board or Executive Committee with respect to that matter.

Acts or Proceedings of Board and Executive Committee not to be invalidated. 23. No act or proceeding of the Board or the Executive Committee shall be invalidated merely by reason of —

(a) any vacancy in, or any defect in, the constitution of the Board or Executive Committee;

(b) any defect in the appointment of a person acting as a member of the Board or Executive Committee; or

(c) any irregularity in the procedure of the Board or Executive Committee not affecting the merits of the case.

Repeal. 24. On and from the appointed day, any law, proclamation, order, rules, regulations or notifications in relation to the Tashi Namgyal Academy, Gangtok, shall stand repealed.

B.R. PRADHAN,
Secretary to the Government of Sikkim
Law Department.
F. No. 10 (28)/LD/83.

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SIKKIM

GOVERNMENT GAZETTE

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GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 18/LD/17 Dated: 6/10/2017

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received assent of the Governor on 8th day of September, 2017 is hereby published for general information :-

TASHI NAMGYAL ACADEMY BOARD (AMENDMENT) ACT, 2017

(ACT NO. 18 OF 2017)

AN

ACT

to amend the Tashi Namgyal Academy Board Act, 1983

BE it enacted by the Legislature of Sikkim in the Sixty-eight Year of the Republic of India as follows:-

Short title and commencement

1. (1) This Act may be called the Tashi Namgyal Academy Board (Amendment) Act, 2017.

(2) It shall come into force on the date of its publication in the Official Gazette.

Substitution of reference to certain expression by certain other expression

2. In the Tashi Namgyal Academy Board Act, 1983, (hereinafter referred to as "the Principal Act"), throughout the Principal Act, unless otherwise expressly provided, for the words "Executive Committee" wherever they occur, the words "School Management Committee" shall be substituted.

Amendment of section 2

3. In the principal Act, in section 2,-

(i) for clause (f), the following clause shall be substituted namely:-

"(f) "School Management Committee" means the School Management Committee constituted under section 13";

(ii) for clause (j), the following clause shall be substituted, namely:-

"(j) "President" means the President of the School Management Committee."

Amendment of section 4

4. In the principal Act, in section 4,-

(i) for sub-section (1), the following sub-section shall be substituted, namely:-

"(1) The Board shall consists of the following members, namely:-

(a) Minister for HRDD, Government of Sikkim - Chairman;

(b) Secretary-in-Charge, HRDD - Member;

(c) Secretary-in-Charge, FRED - Member;

(d) The Principal of any Residential Public School of good standing located in Sikkim - Member;

(e) 2 (two) members representing the Parents - Members;

(f) Representative of TNA Staff - Member;

(g) Representative of TNA Alumni - Member;

(h) The Principal of the School - Member Secretary;"

(ii) in sub-section(3).-

(a) for the words and brackets "clause (i) and (j)", the words and bracket "clause (e)" shall be substituted;

(b) for the word "five", the word "two" shall be substituted;

(iii) after sub-section (3), the following sub-section shall be inserted, namely:-

"(4) The members specified in clause (f) shall be nominated by the Chairman in accordance with such procedure as may be prescribed and shall hold office for a term of 2 (two) years."

Amendment of section 7

5. In the principal Act, in section 7, for sub –section (2), the following sub-section shall be substituted, namely:-

"(2) The Chairman shall be the appointing authority of the Principal and the Principal shall be the appointing authority for all the employees of the school. The Board's prior sanction shall be obtained (in an Annual Meeting or Special Meeting) by the School Management Committee before any immovable properties are acquired by outright purchase of disposed off by way of sale or otherwise, and such acquisitions and disposals shall be made in the name of the Board."

(67)

Amendment of section 8

6. In the principal Act, in section 8,-

(i) for the marginal heading "Transfer of School property and other properties", the marginal heading "Ownership of School Property" shall be substituted;

(ii) for sub-section(1), the following sub-section shall be substituted, namely;-

"(1) The land ,buildings furniture and equipment or any other assets, in which the school is housed or owned by the school or owned by the Government, shall contitue to be vested in the Board."

Amendment of section 13

7. In the principal Act, in section 13,-

(i) for sub-section(3), the following sub-section shall be substituted, namely:-

"(3) Subject to sub-section (4), the School Management Committee shall consist of six members, one of whom shall be named as its President, who shall be the Principal and the remaining members shall consist of two nominated members of the staff, three nominated parent's representatives";

(ii) sub-section (5), (6) and (7) shall be omitted.

Omission of section 14

8. In the principal Act, section 14 shall be omitted;

Amendment of section 17

9. In the principal Act, in section 17.-

(i) for clause (b), the following clause shall be substituted, namely;-

"(b) Every appointment, termination of service, dismissal, retirement, extension of service or re-employment of any of the employees of the school other than its Principal, and every case of disciplinary action against any such employee where, according to the relevant service rules, the maximum punishment involves dismissal or compulsory retirement, shall be considered by the School Management Committee and will make recommendations to the Chairman for confirmation."

(ii) in clause (i), for the words "delegated by the Executive Committee to the Principal", the words "available with the Principal", shall be substituted.

Amendment of section 18

10. In the principal Act, in section 18, for sub-section (1), the following sub-section shall be substituted, namely;-

"(1) Principal shall be the ex-officio Secretary of the Board and the President of the School Management Committee."

Jagat B. Rai (SSJS)
LR-cum-Secretary,
Law Department.